



General Assembly

January Session, 2005

Amendment

LCO No. 7233

HB0521507233HDO

Offered by:

REP. LAWLOR, 99th Dist.

REP. WALKER, 93rd Dist.

REP. KIRKLEY-BEY, 5th Dist.

REP. CANDELARIA, 95th Dist.

REP. MANTILLA, 4th Dist.

REP. MCCRORY, 7th Dist.

To: Subst. House Bill No. 5215

File No. 528

Cal. No. 387

"AN ACT CONCERNING COURT JURISDICTION IN JUVENILE MATTERS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 54-76b of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2005*):

5 (a) For the [purpose] purposes of sections 54-76b to 54-76n,
6 inclusive; [, "youth"]

7 (1) "Youth" means (A) a minor who has reached the age of sixteen
8 years but has not reached the age of eighteen years, or (B) a child who
9 has been transferred to the regular criminal docket pursuant to section
10 46b-127; and ["youthful offender"]

11 (2) "Youthful offender" means a youth who [(1)] (A) is charged with
12 the commission of a crime which is not a class A felony or a violation

13 of subdivision (2) of subsection (a) of section 53-21 [.] or section 53a-70,
14 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b, except a violation
15 involving consensual sexual intercourse or sexual contact between the
16 youth and another person who is thirteen years of age or older but
17 under sixteen years of age, [(2)] (B) has not previously been convicted
18 of a felony or been previously adjudged a serious juvenile offender or
19 serious juvenile repeat offender, as defined in section 46b-120, [or a
20 youthful offender, or been afforded a pretrial program for accelerated
21 rehabilitation under section 54-56e,] and [(3)] (C) is adjudged a
22 youthful offender pursuant to the provisions of [said sections] sections
23 54-76b to 54-76n, inclusive.

24 (b) The Interstate Compact for Adult Offender Supervision under
25 section 54-133 shall apply to youthful offenders.

26 Sec. 2. Section 54-76c of the general statutes is repealed and the
27 following is substituted in lieu thereof (*Effective October 1, 2005*):

28 In any case where an information or complaint has been laid
29 charging a defendant with the commission of a crime, and where it
30 appears that the defendant is a youth, [upon motion of the defendant,
31 his counsel, the state's attorney or the prosecuting attorney, as the case
32 may be, to the court having jurisdiction that an investigation be made
33 of such defendant for the purpose of determining whether he is
34 eligible to be adjudged a youthful offender, the court shall, but only as
35 to the public, order the court file sealed. The court on its own motion
36 may, but only as to the public, order the court file sealed in the case of
37 a youth charged with crime] such defendant shall be presumed to be
38 eligible to be adjudged a youthful offender and the court having
39 jurisdiction shall, but only as to the public, order the court file sealed,
40 unless such defendant (1) is charged with the commission of a crime
41 which is a class A felony or a violation of subdivision (2) of subsection
42 (a) of section 53-21 or section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a
43 or 53a-72b, except a violation involving consensual sexual intercourse
44 or sexual contact between the youth and another person who is
45 thirteen years of age or older but under sixteen years of age, or (2) has

46 been previously convicted of a felony or been previously adjudged a
47 serious juvenile offender or serious juvenile repeat offender, as defined
48 in section 46b-120. Upon motion of the state's attorney or the
49 prosecuting attorney, as the case may be, the court may order that an
50 investigation be made of such defendant under section 54-76d, as
51 amended by this act, for the purpose of determining whether such
52 defendant is ineligible to be adjudged a youthful offender, provided
53 the court file shall remain sealed, but only as to the public, during such
54 investigation.

55 Sec. 3. Section 54-76d of the general statutes is repealed and the
56 following is substituted in lieu thereof (*Effective October 1, 2005*):

57 (a) If the court grants [such] a motion under section 54-76c, as
58 amended by this act, or if the court on its own motion determines that
59 the defendant should be investigated [hereunder] under this section,
60 and the defendant consents to physical and mental examinations, if
61 deemed necessary, and to investigation and questioning, and to a trial
62 without a jury, should a trial be had, the information or complaint
63 shall be held in abeyance and no further action shall be taken in
64 connection with such information or complaint until such
65 examinations, investigation and questioning are had of the defendant.
66 Investigations under [sections 54-76b to 54-76n, inclusive,] this section
67 shall be made by an adult probation officer. When the information or
68 complaint charges commission of a felony, the adult probation officer
69 shall include in the investigation a summary of any unerasd juvenile
70 record of adjudications of the defendant.

71 (b) Upon the termination of such examinations, investigation and
72 questioning, the court, in its discretion based on the severity of the
73 crime, which shall also take into consideration whether or not the
74 defendant took advantage of the victim because of the victim's
75 advanced age or physical incapacity, and the results of the
76 examinations, investigation and questioning, shall determine whether
77 such defendant is eligible or ineligible to be adjudged a youthful
78 offender. If the court determines that the defendant is eligible to be so

79 adjudged, no further action shall be taken on the information or
80 complaint and the defendant shall be required to enter a plea of
81 "guilty" or "not guilty" to the charge of being a youthful offender. If the
82 court determines that the defendant is ineligible to be so adjudged, it
83 shall order the information or complaint to be unsealed and the
84 defendant shall be prosecuted as though the proceeding [hereunder]
85 under this section had not been had.

86 (c) If no motion is made by the state's attorney or the prosecuting
87 attorney, as the case may be, under section 54-76c, as amended by this
88 act, or by the court under subsection (a) of this section, and the
89 defendant consents to a trial without a jury, should a trial be had, no
90 further action shall be taken on the information or complaint and the
91 defendant shall be required to enter a plea of "guilty" or "not guilty" to
92 the charge of being a youthful offender.

93 Sec. 4. Section 54-76h of the general statutes is repealed and the
94 following is substituted in lieu thereof (*Effective October 1, 2005*):

95 All of the proceedings [except proceedings on the motion under
96 section 54-76c] had under the provisions of sections 54-76b to 54-76n,
97 inclusive, shall be private and shall be conducted in such parts of the
98 courthouse or the building wherein court is located as shall be separate
99 and apart from the other parts of the court which are then being held
100 for proceedings pertaining to adults charged with crimes. If [such] the
101 defendant is committed while [such] any examination and
102 investigation under section 54-76c, as amended by this act, is pending,
103 before trial, during trial or after judgment and before sentence, those
104 persons in charge of the place of detention shall segregate such
105 defendant, to the extent of their facilities, from defendants over the age
106 of eighteen years charged with crime.

107 Sec. 5. Section 54-76i of the general statutes is repealed and the
108 following is substituted in lieu thereof (*Effective October 1, 2005*):

109 Pending and during the investigation, trial, adjudication or acquittal
110 of the defendant, or any other proceedings under sections 54-76b to 54-

111 76n, inclusive, the court [to which the recommendation for the
112 investigation has been made] having jurisdiction shall have the same
113 powers over the person of the defendant as it would have in the case of
114 an adult charged with crime.

115 Sec. 6. Section 54-76j of the general statutes is repealed and the
116 following is substituted in lieu thereof (*Effective October 1, 2005*):

117 (a) The court, upon the adjudication of any person as a youthful
118 offender, may: (1) [commit] Commit the defendant; [] (2) impose a fine
119 not exceeding one thousand dollars; [] (3) impose a sentence of
120 conditional discharge or a sentence of unconditional discharge; [] (4)
121 impose a sentence of community service; [] (5) impose a sentence to a
122 term of imprisonment not greater than that authorized for the crime
123 committed by the defendant, but in no event shall any such term
124 exceed four years; (6) impose sentence and suspend the execution of
125 the sentence, entirely or after a period set by the court; [] (7) order
126 treatment pursuant to section 17a-699; [] or (8) if a criminal docket for
127 drug-dependent persons has been established pursuant to section
128 51-181b in the judicial district in which the defendant was adjudicated
129 a youthful offender, transfer the supervision of the defendant to the
130 court handling such docket.

131 (b) If execution of the sentence is suspended under subdivision (6)
132 of subsection (a) of this section, the defendant may be placed on
133 probation or conditional discharge for a period not to exceed three
134 years, provided, [the court in its discretion may from time to time,
135 while such probation is in force, extend such probation for a period not
136 to exceed five years, including the original probationary period] at any
137 time during the period of probation, after hearing and for good cause
138 shown, the court may extend the period as deemed appropriate by the
139 court. If the court places the person adjudicated to be a youthful
140 offender on probation, the court may order that, as a condition of such
141 probation, the person be referred for services to a youth service bureau
142 established pursuant to section [17a-39] 10-19m, provided the court
143 finds, through an assessment by a youth service bureau or its designee,

144 that the person is in need of and likely to benefit from such services. If
145 the court places a person adjudicated as a youthful offender on
146 probation, the court may order that, as a condition of such probation,
147 the person participate in the zero-tolerance drug supervision program
148 established pursuant to section 53a-39d. If the court places a youthful
149 offender on probation, school and class attendance on a regular basis
150 and satisfactory compliance with school policies on student conduct
151 and discipline may be a condition of such probation and, in such a
152 case, failure to so attend or comply shall be a violation of probation. If
153 the court has reason to believe that the person adjudicated to be a
154 youthful offender is or has been an unlawful user of narcotic drugs, as
155 defined in section 21a-240, and the court places such youthful offender
156 on probation, the conditions of probation, among other things, shall
157 include a requirement that such person shall submit to periodic tests to
158 determine, by the use of "synthetic opiate antinarcotic in action",
159 nalline test or other detection tests, at a hospital or other facility,
160 equipped to make such tests, whether such person is using narcotic
161 drugs. A failure to report for such tests or a determination that such
162 person is unlawfully using narcotic drugs shall constitute a violation of
163 probation. If the court places a person adjudicated as a youthful
164 offender for a violation of section 53-247 on probation, the court may
165 order that, as a condition of such probation, the person undergo
166 psychiatric or psychological counseling or participate in an animal
167 cruelty prevention and education program, provided such a program
168 exists and is available to the person.

169 (c) Commitment [hereunder] under this section shall be for a period
170 not to exceed the term of imprisonment authorized for the crime
171 committed by the defendant, but in no event shall any such period
172 exceed four years, and shall be to any religious, charitable or other
173 correctional institution authorized by law to receive persons over the
174 age of sixteen years. Whenever a youthful offender is committed by
175 the court to any duly authorized religious, charitable or other
176 institution, other than an institution supported or controlled by the
177 state or a subdivision thereof, such commitment shall be made, when

178 practicable, to a religious, charitable or other institution under the
179 control of persons of the same religious faith or persuasion as that of
180 the youthful offender. If a youthful offender is committed by the court
181 to any institution other than an institution supported or controlled by
182 the state or a subdivision thereof, which is under the control of persons
183 of a religion or persuasion different from that of the youthful offender,
184 the court shall state or recite the facts which impel it to make such
185 disposition, and such statement shall be made a part of the record of
186 the proceedings.

187 Sec. 7. Section 54-76l of the general statutes is repealed and the
188 following is substituted in lieu thereof (*Effective October 1, 2005*):

189 (a) For the purposes of this section, "defendant" means any youth
190 who (1) is presumed to be eligible to be adjudged a youthful offender
191 under section 54-76c, as amended by this act, (2) has been determined
192 to be eligible to be adjudged a youthful offender under subsection (b)
193 of section 54-76d, as amended by this act, or is otherwise eligible under
194 subsection (c) of said section, or (3) has been adjudged a youthful
195 offender under section 54-76g.

196 [(a)] (b) The records of any [youth adjudged a youthful offender]
197 defendant, including fingerprints, photographs and physical
198 descriptions, shall be confidential and shall not be open to public
199 inspection or be disclosed except as provided in this section, but such
200 fingerprints, photographs and physical descriptions submitted to the
201 State Police Bureau of Identification of the Division of State Police
202 within the Department of Public Safety at the time of the arrest of a
203 person subsequently adjudged, or subsequently presumed or
204 determined to be eligible to be adjudged, a youthful offender shall be
205 retained as confidential matter in the files of the bureau and be opened
206 to inspection only as provided in this section. Other data ordinarily
207 received by the bureau, with regard to persons arrested for a crime,
208 shall be forwarded to the bureau to be filed, in addition to such
209 fingerprints, photographs and physical descriptions, and be retained in
210 the division as confidential information, open to inspection only as

211 provided in this section.

212 [(b)] (c) The records of any [youth adjudged a youthful offender on
213 or after October 1, 1995] defendant, or any part thereof, may be
214 disclosed to and between individuals and agencies, and employees of
215 such agencies, providing services directly to the [youth] defendant,
216 including law enforcement officials, state and federal prosecutorial
217 officials, school officials in accordance with section 10-233h, court
218 officials, the Division of Criminal Justice, the Court Support Services
219 Division, the Board of Pardons and Paroles and an advocate appointed
220 pursuant to section 54-221 for a victim of a crime committed by the
221 [youth] defendant. Such records shall also be available to the attorney
222 representing the [youth] defendant, in any proceedings in which such
223 records are relevant, to the parents or guardian of such [youth]
224 defendant, until such time as the [youth] defendant reaches the age of
225 majority or is emancipated, and to the [youth] defendant upon his or
226 her emancipation or attainment of the age of majority, provided proof
227 of the identity of such [youth] defendant is submitted in accordance
228 with guidelines prescribed by the Chief Court Administrator. Such
229 records disclosed pursuant to this subsection shall not be further
230 disclosed.

231 [(c)] (d) The records of any [youth adjudged a youthful offender]
232 defendant, or any part thereof, may be disclosed upon order of the
233 court to any person who has a legitimate interest in the information
234 and is identified in such order. Records or information disclosed
235 pursuant to this subsection shall not be further disclosed.

236 [(d)] (e) The records of any [youth adjudged a youthful offender]
237 defendant, or any part thereof, shall be available to the victim of the
238 crime committed by such [youth] defendant to the same extent as the
239 record of the case of a defendant in a criminal proceeding in the
240 regular criminal docket of the Superior Court is available to a victim of
241 the crime committed by [such] the defendant in such criminal
242 proceeding. The court shall designate an official from whom such
243 victim may request such information. Information disclosed pursuant

244 to this subsection shall not be further disclosed.

245 [(e)] (f) Any reports and files held by the Court Support Services
 246 Division regarding any [youth adjudged a youthful offender]
 247 defendant who served a period of probation may be accessed and
 248 disclosed by employees of the division for the purpose of performing
 249 the duties contained in section 54-63b.

250 [(f)] (g) Information concerning any [youth adjudged a youthful
 251 offender] defendant who has escaped from an institution to which
 252 such [youth] defendant has been committed or for whom an arrest
 253 warrant has been issued may be disclosed by law enforcement
 254 officials.

255 [(g)] (h) The information contained in and concerning the issuance
 256 of any protective order issued in a case in which a person is [found]
 257 presumed or determined to be eligible to be adjudged a youthful
 258 offender shall be entered in the registry of protective orders pursuant
 259 to section 51-5c and may be further disclosed as specified in said
 260 section."

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2005</i>	54-76b
Sec. 2	<i>October 1, 2005</i>	54-76c
Sec. 3	<i>October 1, 2005</i>	54-76d
Sec. 4	<i>October 1, 2005</i>	54-76h
Sec. 5	<i>October 1, 2005</i>	54-76i
Sec. 6	<i>October 1, 2005</i>	54-76j
Sec. 7	<i>October 1, 2005</i>	54-76l